

In The Matter Of:
United States vs.
PFC Bradley E. Manning

Vol. 33
August 12, 2013
UNOFFICIAL DRAFT - 8/12/13 Afternoon Session

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VOLUME XXXIII

IN THE UNITED STATES ARMY

UNITED STATES

VS.

MANNING, Bradley E., Pfc. COURT-MARTIAL

U.S. Army, xxx-xx-9504

Headquarters and Headquarters Company,

U.S. Army Garrison,

Joint Base Myer-Henderson Hall,

Fort Myer, VA 22211

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The Hearing in the above-entitled matter was

held on Monday, August 12, 2013, commencing at 1:45

p.m., at Fort Meade, Maryland, before the Honorable

Colonel Denise Lind, Judge.

DISCLAIMER

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1 APPEARANCES:

2
3 ON BEHALF OF GOVERNMENT:

4 MAJOR ASHDEN FEIN

5 CAPTAIN JOSEPH MORROW

6 CAPTAIN ANGEL OVERGAARD

7 CAPTAIN HUNTER WHYTE

8 CAPTAIN ALEXANDER VAN ELTEN

9
10 ON BEHALF OF ACCUSED:

11 DAVID COOMBS

12 CAPTAIN JOSHUA TOOMAN

13 MAJOR THOMAS HURLEY

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1 PROCEEDINGS,

2 Whereupon,

3 ELIJAH DRENER,

4 called as a witness, having been first duly sworn to tell
5 the truth, the whole truth, and nothing but the truth,
6 was examined and testified as follows:

7 (Testimony in progress.)

8 EXAMINATION BY MR. MORROW:

9 Q Sir, you wouldn't necessarily expect to
10 have interaction with Master Sergeant Atkins or Major
11 Clausen unless there were some kind of issues?

12 A Correct.

13 Q So it wasn't necessarily -- you know, you
14 weren't required as a commander to check in them every
15 day and they weren't required to check in with you
16 every day, it was only if issues that needed your
17 attention [inaudible]?

18 A Correct.

19 Q And how long have you been in the army,
20 sir?

21 A I came into the army in 1992.

1 Q And have you ever had a soldier with an
2 anger management issue?

3 A No, not an anger management issue.

4 Q And you observed other soldiers who have
5 gotten angry at their superiors?

6 A Yes.

7 Q Is necessarily something that leads to the
8 initiation of an adverse action?

9 A Not necessarily, no.

10 Q And why not, sir?

11 A A lot of times that's left to the NCO to
12 address that issue, to come up with some type of
13 corrective training.

14 Q So corrective training short of, like, an
15 R15 or a derog?

16 A Yes.

17 Q Sir, you mentioned you were sort of in
18 the -- you went home on leave the same time as PFC
19 Manning?

20 A Yes.

21 Q And you guys talked about college?

1 A Yes.

2 Q Education, potentially going green to gold?

3 A Yes.

4 Q Did anything strike you as, you know, weird
5 about PFC Manning?

6 A It was kind of interesting trying to
7 understand where he was coming from. I really had not
8 had a conversation with him previous to that.

9 Q But it was normally -- it was, otherwise, a
10 conversation that you might have with any other soldier
11 there?

12 A Yes.

13 Q One moment.

14 Sir, in terms of time period, you left
15 command in April of 2010?

16 A On paper, yes.

17 Q Okay. And Captain Freeburg took over for
18 you?

19 A Yes.

20 MR. MORROW: Thank you, sir.

21 THE COURT: Redirect?

1 MR. COOMBS: No, Your Honor.

2 THE COURT: What do you mean "on paper?"

3 THE WITNESS: Ma'am, I was assuming another
4 role and going through a change in command.

5 THE COURT: Is that when -- so did you --
6 did your duties as commander of HHC end in April of
7 2010?

8 THE WITNESS: I was working as the CHOPS as
9 well as the company command.

10 THE COURT: Let me be a little more clear.
11 When did your duties end as the company commander?

12 THE WITNESS: In April.

13 THE COURT: In April of 2010? So,
14 really -- in reality as well as on paper?

15 THE WITNESS: I wasn't available, given the
16 job that I was doing, to be a company commander.

17 THE COURT: When did that start?

18 THE WITNESS: Near the end of February,
19 beginning of March.

20 THE COURT: And to the best of your
21 recollection, do you remember when PFC Manning's bolt

1 was taken from his weapon?

2 A I do not know.

3 THE COURT: Any followup based on that?

4 MR. COOMBS: No, Your Honor.

5 MR. MORROW: One moment, Your Honor.

6 (Pause). Just Briefly, Your Honor.

7 EXAMINATION BY MR. MORROW:

8 Q Sir, when you were doing dual duty as the
9 CHOPS and then also as the company commander?

10 A Yes.

11 Q You were still -- people still come to you
12 in terms of administrative actions for the company; is
13 that correct?

14 A Yes.

15 MR. MORROW: Thank you.

16 THE COURT: All right. Major Drener, you
17 are temporarily excused. Please don't discuss your
18 testimony or knowledge of the case anyone other counsel
19 of the accused while the trial is still going on.

20 THE WITNESS: Thank you, ma'am. Is.

21 MR. COOMBS: The Defense calls Major

1 Clifford Clausen.

2 Whereupon,

3 MAJOR CLIFFORD CLAUSEN,

4 called as a witness, having been first duly sworn to tell
5 the truth, the whole truth, and nothing but the truth,
6 was examined and testified as follows:

7 EXAMINATION BY MR. COOMBS:

8 Q Please be seated.

9 A (Witness complied.)

10 Q Were you ever the brigade S2 for the second
11 combat team?

12 A I was the second brigade S2 from January of
13 2009 to December of 2009.

14 Q And, currently, are you still in the
15 service?

16 A I am retired now.

17 Q And when did you retire?

18 A I retired 1 February.

19 Q I want to ask you a few questions about the
20 brigade's guidance to you for selecting those members
21 of the brigade that you would take forward with you on

1 deployment, okay?

2 A Yes.

3 Q Now, what guidance was given to you by the
4 brigade regarding selecting those members who would not
5 deploy?

6 A I don't remember in specific. You know,
7 just the normal reasons to remain behind.

8 Q Was there any pressure from higher
9 leadership to deploy members of your section in order
10 to meet strength?

11 A We were having a problem meeting strength.
12 There's pressure on the whole unit to deploy so we can
13 provide the best intelligence possible. I do not
14 remember specifics.

15 Q Within your S2 section, were you under
16 strength or did you have adequate --

17 A We were understrength.

18 Q How understrength were you?

19 A It was about a third, roughly, between
20 everything I can remember.

21 Q What percentage of strength did -- from

1 your memory, did you need to have in order to deploy?

2 A It would have taken about a third just to
3 meet the bare minimum requirements.

4 Q And with --

5 THE COURT: I'm sorry, it would take a
6 third of all the strength?

7 THE WITNESS: All the normal Intel, ma'am.

8 THE COURT: Okay. Thank you.

9 BY MR. COOMBS:

10 Q If you wanted to leave someone back in the
11 rear either due to a performance issue or just believe
12 they shouldn't deploy, what did you need to do, from
13 your understanding?

14 A Talk to the chain of command and inform
15 them of the reason and then you put them on the stay
16 back roster.

17 Q Who was the approval authority for that?

18 A I don't remember.

19 Q Did you ever make a request to leave
20 somebody behind?

21 A We left one NCO behind because of medical

1 problems. He had a heart attack or -- I think it was a
2 heart attack.

3 Q Did Master Atkins ever make recommendation
4 to you concern not deploying PFC Manning?

5 A No. Not that I remember, no.

6 Q Did Master Atkins ever make a
7 recommendation to you regarding any soldier, whether or
8 not they should deploy?

9 A The one NCO for medical reasons.

10 Q Did COII Ehersman ever make a
11 recommendation to you not to deploy PFC Manning?

12 A Not that I remember.

13 Q Did anyone within the S2 section ever make
14 a recommendation regarding whether or not PFC Manning
15 should deploy?

16 A Not that I remember.

17 Q And had anyone in your section, whether
18 that be Chief Ehersman, Master Sergeant Atkins or
19 somebody else made such a recommendation, how would you
20 have handled that?

21 A You take in all the information that you

1 receive to make a determination. Then you have to
2 break out whatever regulations that pertain to for that
3 reason to stay back and, you know, get into the detail
4 to see does it meet regulation or not.

5 Q From your perspective, was PFC Manning
6 deployed due to a manpower issue?

7 A PFC Manning was deployed because we were
8 deploying.

9 Q So could you have operated without PFC
10 Manning?

11 A You can always do more with less, but
12 there's no reason to not operate with Manning.

13 Q All right. So if I understand you
14 correctly, then, PFC Manning could have been left
15 behind if that was the determination, that he wasn't
16 needed for manpower issues; is that correct?

17 A Yeah.

18 Q Now, I want to ask you a few questions what
19 you knew regarding PFC Manning prior to the deployment,
20 okay?

21 A Okay.

1 Q Did you ever receive any reports regarding
2 any behavioral problems with PFC Manning prior to the
3 deployment?

4 A Is Sergeant Atkins had briefed me on the
5 anger issue at JRTC and that he was self-referred once.
6 That's before the deployment, but I don't remember.

7 Q All right. So let's cover those in turn.
8 What do you recall from the issue at JRTC?

9 A He got mad and displayed a violent
10 tendency. I don't remember exactly any description of
11 the violence, and then he was counseled and -- that's
12 about what I remember.

13 Q And from that memory, was counseling the
14 only thing that was done or was there anything else
15 done after that incident?

16 A I don't remember in a timeline whether it
17 was self-referral or which came first. I don't
18 remember the order.

19 Q So let's go with the second incident that
20 you said self-several.

21 Why was that done?

1 A I thought because Manning wanted to get
2 help for his issues.

3 Q And were you ever briefed on what the
4 result was of the self-referral?

5 A No, other than normal continued duty type
6 feedback, that Manning went and saw a psychiatrist.
7 Whatever they said was between them, but no reason to
8 not continue duty.

9 Q And at the time that this was happening,
10 did Master Sergeant Atkins make the recommendation to
11 allow PFC Manning to self-referral or did he make a
12 recommendation regarding a command referral?

13 A I don't remember.

14 Q Was there ever any discussion from your
15 position of doing a command referral or at least
16 recommending to the company commander to do a command
17 referral?

18 A No.

19 Q Do you understand any differences between a
20 command referral and a self-referral?

21 A In generality.

1 Q What -- in general, what do you understand
2 the difference to be?

3 A Self-referral is taken by the soldier to
4 try to seek help for themselves. Command referral is
5 the soldier does not seem to want to take help for
6 themselves and then you give them the opportunity to
7 get that help.

8 Q And is your memory also the difference
9 involving the amount of information that command gets
10 regarding what happens?

11 A I don't remember the reg on what comes back
12 exactly. I don't remember.

13 Q Just so I understand you correctly then,
14 you don't understand there to be a difference between
15 how much information is shared back with the command if
16 it's a self-referral as opposed to a command referral?

17 A Correct, I do not remember.

18 Q And when we talk about command referral,
19 who would be the individual making that determination?

20 A Should be anyone at SJ in command. Most
21 likely the company commander.

1 Q And do I understand you correctly that you
2 don't recall Master Sergeant Atkins ever reporting back
3 to you what happened after PFC Manning went for
4 self-referral?

5 A Well, the fact that he went for
6 self-referral and that nothing was reported back to the
7 chain command to indicate anything other than continued
8 duty, so...

9 Q Prior to the deployment, did you ever
10 discussion any of PFC Manning's problems that you were
11 aware of with the company commander?

12 A No.

13 Q And why not?

14 A Because they were being handled by Master
15 Sergeant Atkins. He briefed me. So he was briefing
16 the company commander on whatever he thought was
17 appropriate and I was letting the administrative
18 company command chain take that.

19 Q Do you recall saying that you did not take
20 issues to the company commander because you didn't take
21 too many issues outside of the S2 shop?

1 A I did say that. What I meant is you don't
2 take issues outside of your little staff section unless
3 you need to and the information was already flowing.
4 So there was no reason for me to go straight over to
5 the company commander if the information was already
6 going.

7 Q And when you say that, I want to make sure
8 I understand you correctly. Are you saying the
9 information was already going to the company commander
10 or the information was already going up to you within
11 the S2 shop.

12 A Up to the company commander. When I was
13 being told that Manning was self-referred, that was
14 also told to the company commander.

15 Q And who do you understand to have reported
16 that to the company commander?

17 A I believe it was Sergeant Atkins. I did
18 not double-check, though.

19 Q And can you tell me why you believe that to
20 be true?

21 A Because I have no reason not to.

1 Q Oh, I know. I'm just wondering was
2 something that was told to you by Master Sergeant
3 Atkins or did you find out that fact in some other
4 manner?

5 A I don't remember exactly how I found out.

6 Q But that's your understanding now?

7 A That's my understanding, yes.

8 Q Okay. I now want to you a few questions
9 about what you knew during the deployment, okay?

10 A Okay.

11 Q When was the first time you were made aware
12 of any behavioral health issues or behavioral office
13 with PFC Manning during the deployment?

14 A In general, not getting along with people.
15 Maybe -- I don't remember time line, but just general,
16 you know, Atkins saying still having a problem getting
17 along with people and then the next thing I do remember
18 is that he was, you know, command referred.

19 Q Do you recall PFC Manning having an
20 outburst in the T-SCIF on 12 December 2009 involving
21 Master Sergeant Atkins?

1 A The specifics, no.

2 Q Do you recall that incident, though?

3 A That's probably what caused the commander
4 referral. I don't remember the time line.

5 Q Do you recall anything about how you found
6 out about that?

7 A Sergeant Atkins would have told me.

8 Q Do you recall being informed about an
9 incident on 20 December 2009 where PFC Manning had an
10 outburst involving Specialist Padgett?

11 A Nothing specific.

12 Q Do you recall that incident, though?

13 A Not at this time.

14 Q With regards to -- I'll ask you a few facts
15 to see if that jogs your memory and you tell me whether
16 or not did it does.

17 Do you recall Master Sergeant Atkins or
18 anyone else informing you of PFC Manning flipping a
19 table during a counseling statement with Specialist
20 Padgett?

21 A I remember something about a table flip.

1 Q Do you recall anyone informing you that PFC
2 Manning, others believe, reached for a weapon during
3 the counseling?

4 A I don't recall.

5 Q You don't recall that happening?

6 A I don't recall that bit of information, no.

7 Q Do you recall being informed that COII
8 Ehersman had to restrain PFC Manning and pull him out
9 of the T-SCIF at this incident?

10 A I don't recall. I don't recall.

11 Q Would this be information that you would
12 expect to have been briefed on as the S2?

13 A Yes.

14 Q And why is that?

15 A Just information pertaining to the section,
16 general operating procedure, you know, in general about
17 the operating environment so that I could make sure
18 that the work was being done.

19 Q The time that you were the S2, did you
20 understand what a derog was?

21 A Yes.

1 Q And what is your understanding?

2 A Derog a derogatory report filed when the
3 command thinks it's time.

4 Q And who can initiate a derog to your
5 understanding?

6 A The chain command.

7 Q With regards to the incident on 20
8 December, 2009, do you believe that a derog, at least
9 notifying the command of this incident, if it involved
10 a soldier reaching for a weapon during a counseling
11 statement, would be something that you would inform the
12 chain-of-command of?

13 A I'm going to ask that you say it again.

14 Q If you were -- and I know you're saying
15 your memory now, you don't recall the incident, but
16 based upon your position as an S2, if you were informed
17 that a soldier during a counseling session reached for
18 a weapon and had to be restrained, would this be
19 something that you would inform the company commander
20 of and have the company commander determine if the
21 derog would be appropriate?

1 A Say it again.

2 Q Sure. So if you, as the S2, Master Atkins
3 comes to you and says, sir, one of our during a
4 counseling session flipped a table, reached for a
5 weapon, had to be restrained by another soldier and
6 dragged out of the T-SCIF?

7 A Okay.

8 Q You're informed of that. Your position as
9 an S2, would that be something that you would inform
10 the company commander of in order to determine whether
11 or not a derog would be appropriate?

12 A If I did not think that Sergeant Atkins or
13 somebody else had informed.

14 Q Okay. And why would that be the case, that
15 you would want to inform the company commander?

16 A So he had full understanding of what was
17 going on within the personnel in his company.

18 Q I show you what's been marked or what is
19 Exhibit XX. Have you ever seen that document before?

20 A To give you a proper answer, I'm just
21 reading.

1 Q Sure, go ahead.

2 THE COURT: While he's reading that, Mr.
3 Coombs, have I admitted that?

4 MR. COOMBS: You have, Your Honor.

5 (Pause.)

6 A I do not remember receiving this memo.

7 Q Do you ever remember seeing that memo
8 before?

9 A I do not remember seeing the memo.

10 Q And you took the time, I guess, to read the
11 memo; is that correct?

12 A Yes, I did.

13 Q Is this the type of information that you
14 would expect to be informed of as the S2?

15 A Yes, I remember something about a little
16 bit of verification with the key that's mentioned in
17 it.

18 Q With regards to the information that's
19 contained in Defense Exhibit XX, is that the type of
20 information you would expect to have reported to you?

21 A Yes.

1 Q And why is that?

2 A Because it provides understanding of the
3 personnel.

4 Q And is that the type of information you
5 would expect to share with the company commander?

6 A That I would expect the company commander
7 to have access to also.

8 Q And why is that?

9 A Because it provides understanding of the
10 personnel under his command.

11 Q But it provides understanding whether or
12 not a ask derog should be initiated?

13 A It informs the derog decision.

14 Q Now, as the S2 you had overall supervisory
15 responsibility of the soldiers within your section; is
16 that correct?

17 A Yes.

18 Q You were responsible for the health,
19 welfare and discipline of the personnel in your
20 session?

21 A Yes.

1 Q You allowed Master Sergeant Atkins to take
2 care of all the officer enlisted issues within the
3 S2 section; is that correct?

4 A No.

5 Q Master Sergeant Atkins had a supervisory
6 scheme that involved officer enlisted members and you
7 supported his scheme; is that correct?

8 THE COURT: Yes?

9 MR. MORROW: Objection. He's leading, he's
10 not asking him.

11 THE COURT: You're asking him leading
12 questions. What is your response?

13 MR. COOMBS: I'm sorry, ma'am. I'll
14 rephrase.

15 BY MR. COOMBS:

16 Q Did Master Atkins have a supervisory scheme
17 within the S2 section?

18 A Yes.

19 Q Did you support that supervisory scheme?

20 A Yes.

21 Q So why did you support Master Sergeant

1 Atkins' supervisory scheme?

2 A Because the commander of NCO is running the
3 unit.

4 Q Do you recall any one coming to you --
5 actually, do you recall Chief Ehersman coming to you to
6 complain about Master Sergeant Atkins' supervisory
7 scheme?

8 A I don't remember any specific complaints
9 from a person.

10 Q So that's a no to Chief Ehersman?

11 A I do not recall any specific complaints. I
12 know people complained. I would have been worried if
13 people don't complain.

14 Q Listen to my question. I'm asking a
15 specific person.

16 Do you recall Chief Ehersman coming to you
17 to complain about the supervisory scheme of Master
18 Sergeant Atkins?

19 A I do not recall specifically, no.

20 Q Do you recall Chief Ehersman ever coming to
21 you to speak to you on multiple occasions to determine

1 whether or not you wanted him involved in soldier
2 leadership and disciplinary decisions?

3 A I remember various discussions with Chief
4 Ehersman and that would have been one of the subjects.
5 But do I remember a specific time, no.

6 Q What was Chief Ehersman's concern if that
7 was one of the subjects?

8 A What I wanted him to do, what his
9 responsibilities were.

10 Q Can you give us what his concern was?

11 A He was to focus in on analytic or to
12 actually be leading the soldier, doing the admin for
13 the soldier.

14 Q And from that conversation, did Chief
15 Ehersman ever express to you concern that he wasn't
16 given responsibility for soldiers?

17 A He wasn't given the responsibilities he
18 used to be used to as an NCO, no.

19 Q Did he express that concern to you?

20 A Probably.

21 Q Do you recall Captain Michael Johnson

1 coming to you to complain about Master Sergeant Atkins'
2 supervisory scheme?

3 A Not specific.

4 Q Do you recall telling Captain Johnson "he
5 needed to stay in his lane?"

6 A No, I do not.

7 Q The individual that you allowed to do the
8 supervisory scheme within the S2 section was Master
9 Sergeant Atkins; is that right?

10 A I approved it.

11 Q Did you believe that Master Sergeant Atkins
12 was a below or above average leader?

13 A To get at the question, I have said he was
14 a bit below average, but that's only because he does
15 not display the tendencies of a person like that, a
16 sergeant major of the 2nd airborne.

17 Q Do you recall saying you would not assess
18 him as a strong NCO?

19 A I did say that and, once again, it's my
20 personal take. If you don't display the tendencies of
21 an infantry, then it's just a different thing.

1 Q When you worked with Master Sergeant
2 Atkins, did you ever notice any memory issues on his
3 part?

4 A No.

5 Q Did you ever notice any issues with Master
6 Sergeant Atkins having difficulty expressing himself?

7 A He has to think, just like I do, to take
8 sure you phrase the information you're trying to send
9 properly.

10 Q But other than, I guess, pausing to
11 contemplate your answer, did you ever notice any
12 difficulties on his part of expressing information?

13 A I might have -- no.

14 Q You know, if you felt that Master Sergeant
15 Atkins was a below average leader, not a strong NCO,
16 why would you support his supervisory scheme in this
17 section?

18 A Sergeant Atkins was a fine NCO and a fine
19 leader. I have a standard that's personal. When I
20 answered that question I gave my personal answer which
21 is, you know, displaying the other things, but I have

1 no problems with the way Sergeant Atkins portrayed
2 himself or carried himself.

3 Q You received a general officer memorandum
4 of reprimand in this case, correct?

5 A Yes.

6 Q And one of the basis was that despite
7 identifying Master Sergeant Atkins as a below average
8 leader, you supported his dysfunctional and unclear
9 leadership scheme; is that correct?

10 A That was in the letter, yes.

11 Q And you wrote a rebuttal to that letter?

12 A Yes, I did.

13 Q And that letter was ultimately filed in
14 your performance file?

15 A Yes.

16 Q Thank you.

17 MR. COOMBS: I'm retrieving from the
18 witness Defense Exhibit XX. No further questions.

19 THE COURT: Cross-examination?

20 MR. MORROW: Yes, ma'am.

21 EXAMINATION BY MR. MORROW:

1 Q Sir, let's start with your letter of
2 reprimand. When that letter of reprimand was filed or
3 served on you, you were given an opportunity to rebut
4 that; is that correct?

5 A Yes, I was.

6 Q And your chief chain command provided
7 recommendations on where that should be filed?

8 A Yes, they did.

9 Q And your immediate commander recommended
10 that it be filed locally?

11 A Yes.

12 Q And your 06 commander recommended that be
13 filed locally?

14 A Yes.

15 Q And your general officer recommended that
16 be filed locally; is that correct?

17 A Yes.

18 Q And that general officer was who?

19 A General Lajere (phonetic).

20 Q And General Lajere is who? What
21 position --

1 A He is currently the DAG2.

2 Q Department of the Army G2?

3 A Yes.

4 Q All right. Sir, let's talk about Master
5 Atkins. Master Atkins had a number of stripes; is that
6 correct?

7 A Yes.

8 Q He was strong in organization?

9 A Definitely.

10 Q Equipment?

11 A Yes.

12 Q He -- when he had a problem he would come
13 to you with a solution?

14 A Yes, definitely.

15 Q He was smart and (inaudible)?

16 A Definitely.

17 Q And he lived the motto "mission first,
18 people last?

19 A Totally. Totally cared about the mission
20 and the people.

21 Q Why do you say that?

1 A Everything he displayed and did led me to
2 believe that. He wanted to make sure that the mission
3 was always accomplished, but while doing that he always
4 tried his best to take care of the soldiers, making
5 sure they had the help they needed or whatever they
6 needed.

7 Q How long were -- have you been in the army?
8 Were you in the army, sir?

9 A I was in the army 18 years.

10 Q And your general mode of operating is that
11 you don't take "ash and trash" to the commander; is
12 that correct?

13 A Exactly right. You don't burden them with
14 things that they don't need to effect.

15 Q You take appropriate issues to the chain of
16 command?

17 A Exactly right.

18 Q And in some cases anger management issues
19 for a soldier in your section might not necessarily be
20 a reason or an issue that you need to take to the chain
21 of command?

1 A Right, especially if it's low lying. You
2 don't take a brigade's worth of soldiers' issues
3 straight to the brigade commander.

4 Q And you may not even necessarily take it to
5 the company commander if it's being dealt with other --

6 A Exactly right.

7 Q Sir, would you ever encourage a soldier not
8 to go seek behavioral health treatment?

9 A No, I would encourage them to seek
10 behavioral health treatment or anything that could aid
11 them in their --

12 Q And why not? Why is it important to
13 encourage soldiers to seek out behavioral health?

14 A Especially since I've been growing up in
15 the MI, it's overcoming the stigma that behavioral
16 health has especially within MI. You want them to be
17 able to get the help and know that they can get the
18 help and you want other soldiers to see that if you
19 want to get help for any issue that you have, that you
20 can. It's vitally important point for their health and
21 for the general organization's health.

1 Q And, sir, that would be true whether it was
2 a self-referred trip or whether it was a commander
3 referred?

4 A Yes.

5 Q You would want to encourage soldiers to
6 take advantage of --

7 A Any help that they can get, yes.

8 Q Sir, in the mental health context, why is
9 the MI field a little bit different than maybe some of
10 the other fields?

11 A Because especially the stigma back in the
12 day is if you saw a mental health professional, you
13 lost your ability to have a job.

14 Q And the situation we have today in terms of
15 soldiers seeking treatment if they need it, is that a
16 better system than what we had before?

17 A It has definitely improved where you can
18 get help and try to get the right help for the right
19 problem.

20 Q Just one moment, sir.

21 (Pause.)

1 MR. MORROW: Thank you, sir.

2 MR. COOMBS: No redirect.

3 THE COURT: Mr. Clausen, you are
4 temporarily excused. Please don't discuss your
5 testimony or your knowledge of the case with anyone
6 other than the lawyers or the accused while the trial
7 is still going on.

8 THE WITNESS: Yes, ma'am.

9 (Witness left stand.)

10 THE COURT: Yes?

11 MR. MORROW: Your Honor, may we have a
12 ten-minute recess?

13 THE COURT: Any objection?

14 MR. COOMBS: No objection, Your Honor.

15 THE COURT: All right. The court is in
16 recess until 14:30 or 2:30.

17 THE CLERK: All right.

18 THE COURT: Carry on.

19 (There was a recess taken and the trial
20 resumed at 2:30 p.m.)

21 THE CLERK: All rise.

1 THE COURT: Please be seated. The court is
2 called to order. Let the record reflect all parties
3 present when the court last recessed are again present
4 in court.

5 Mr. Coombs, are you ready to proceed?

6 MR. COOMBS: Yes, Your Honor. The Defense
7 calls Captain Matthew Freeburg.
8 Whereupon,

9 CAPTAIN MATTHEW FREEBURG,
10 called as a witness, having been first duly sworn to tell
11 the truth, the whole truth, and nothing but the truth,
12 was examined and testified as follows:

13 EXAMINATION BY MR. COOMBS:

14 Q For the record, you're Captain Matthew
15 Freeburg of the 30th Brigade.

16 A I am.

17 Q Good afternoon, Captain.

18 I want to start off by talking about when
19 you were the agency commander, at NCPT. Okay?

20 A Okay.

21 Q Can you tell the court what timeframe you

1 were the agency commander?

2 A I was commander from 17 April, 2010 to 26
3 June, 2012.

4 Q And when you became the company commander,
5 did you receive a briefing on personnel and
6 administrative matters from Major Drew?

7 A I did not.

8 Q And do you know why not?

9 A At that time, the focus was not typically
10 on personnel and those other things that normally go
11 with the handoff between outgoing/incoming. We had,
12 like, some major property issues that kind of
13 overshadowed everything else at the time. That is why.

14 Q Okay. And at the time that you took
15 command, were you ever told of any behavioral issues
16 with PFC Manning?

17 A Not at the time I took command.

18 Q When was the first time that you were made
19 aware of any problems involving PFC Manning?

20 A To the best of my knowledge, it was at the
21 time -- early May at the time of the assault on Special

1 Showman.

2 Q And who briefed you on this incident?

3 A It would have been Master Sergeant Atkins
4 at the time.

5 Q Do you recall Lieutenant Gavin ever talking
6 to you about it?

7 A I want to say -- when Master Sergeant
8 Atkins was talking to me, I want to say that she did
9 happen to kind of step into the conversation as well.
10 She was had a very small part in the whole conversation
11 between myself and Master Sergeant Atkins, but I do
12 remember that she did, I guess, step in there for a
13 short time.

14 Q And when were you informed of the incident,
15 from your memory?

16 A It happened in the early morning. The
17 exact date, I want to say 7 May, but before sunrise and
18 then, like, mid morning, maybe 8:00, 9:00 is when I was
19 actually informed of the incident.

20 Q And how did you respond to the incident?

21 A I guess I was surprised that any kind of

1 assault would happen just because I knew Specialist
2 Manning at the time. Not because I knew his character
3 or anything like that. It's just, like, a soldier on
4 soldier assault, that kind of -- that's not the best
5 thing.

6 So, at that time, Master Sergeant Atkins,
7 he did say, hey, I don't really think he should working
8 on the SCIF anymore because of this incident, can you
9 help us put him somewhere else.

10 And the only thing I can think of at the
11 time was, okay, well, I don't want to put him in
12 another staff section to work. So I'll just go ahead
13 and take him and he can work in my company headquarters
14 in the supply room. That was my response to that.

15 Q And did you initiate a derog based upon
16 this incident?

17 A I don't know if -- I don't think I actually
18 typed it up. I want to say Specialist Showman from the
19 S2 had typed it up and then sent it to me and said,
20 hey, due to -- because at the time of the incident or
21 the assault, I knew I was going to take some kind of

1 UCMJ action on Manning.

2 So I didn't know the steps that I was going
3 to have to take as far as, like, what needed to be done
4 as far as a derog. So I did have -- Special Showman
5 did send me -- filled out a copy of the derog which I
6 didn't really question at the time, okay. This was a
7 pending UCMJ action. This is kind of standard
8 procedure. So I went ahead and signed it. I gave it
9 back to the S2 Showman for processing.

10 Q I'm showing you what has been marked as
11 Defense Exhibit Oscar-Oscar-Oscar for identification.
12 Take a look at that for a moment and look up at me when
13 you're done.

14 A My recommendation.

15 Q Do you recognize that?

16 A I do.

17 Q What is it?

18 A It is -- appears to me to be the derog --
19 the derog paperwork.

20 Q Was that the derog that you filed for the
21 incident involving PFC Manning?

1 A It would have been.

2 Q Is this derog in the same condition as it
3 was at the time you filled it out other than being a
4 copy, I guess?

5 A Yes.

6 Q I'm retrieving this exhibit,
7 Oscar-Oscar-Oscar for identification from the witness
8 and offering that this exhibit, Oscar-Oscar-Oscar, for
9 identification as Defense Exhibit Oscar-Oscar-Oscar.

10 THE COURT: Any objection?

11 MR. MORROW: No, objection.

12 THE COURT: This is admitted.

13 BY MR. COOMBS:

14 Q You filled out the derog. What was your
15 understanding of what that would mean for PFC Manning's
16 security clearance?

17 A What I thought it would mean was just
18 exactly what I wrote in my -- the commander's
19 recommendation that we go forward and then his security
20 clearance would be temporarily suspended until, as they
21 say, the matter could be adjudicated. So until a

1 determination could be made of, okay, does he need to
2 keep his clearance, does he not. That's about the
3 extent of my -- what I knew the derog was going to do.

4 Q So tell me if I'm correct.

5 Your understanding wasn't that a derog
6 would automatically revoke clearance, it's just that it
7 could suspend clearance and then you could make an
8 ultimate determination?

9 A That was my understanding at the time.

10 Q Now, after the incident with Special
11 Showman, did you learn of any other instances involving
12 PFC Manning and S2 personnel?

13 A Can you repeat the question, sir?

14 Q Yeah. After this incident with Special
15 Showman, were you informed of any other instances
16 involving PFC Manning and personnel within the
17 S2 section?

18 A Not to my knowledge, sir. Not to my
19 memory. As far as, like, I don't think he had any
20 other issues with other people on the section. I'm not
21 sure, but...

1 Q Now, you indicated that your memory was
2 that Master Sergeant Atkins was the one who came to
3 report this to you this and made the recommendation of
4 removing PFC Manning from the SCIF; is that correct?

5 A Yeah, to the best of my memory.

6 Q Is it possible that Lieutenant Gavin was
7 the person who made that recommendation to you?

8 A That is a possibility.

9 Q I'm showing you what is Defense Exhibit XX,
10 Defense November-November-November for identification
11 and Defense Exhibit Mike-Mike-Mike for identification.
12 I know that's a lot of paperwork, but without looking
13 at the substance right now, can you just kind of look
14 at each one of those and tell me if you've ever seen
15 those memorandums before?

16 THE COURT: What exhibits are those?

17 MR. COOMBS: Defense Exhibit XX and Defense
18 Exhibit November-November-November for identification
19 and Defense Exhibit Mike-Mike-Mike for identification,
20 ma'am.

21 A I think I may have.

1 Q Do you recall when you might have seen
2 those memorandums?

3 A I think it was after the assault. I don't
4 know if it was during the -- after the assault and then
5 the decision was made, okay, let's go ahead and have
6 Manning have a fit-for-duty mental eval and then when
7 the results come back from that, if the mental health
8 eval says he's fit from continued service or, no, we
9 recommend that he's not and then the next step is going
10 to be building like a separation packet for him. I was
11 thinking the more paperwork that we have documenting
12 some instance in the past, the better or the -- I guess
13 the more valid the packet is going to look or the
14 stronger the packet will be when it gets to the
15 approving authority, whoever that would have been at
16 the time.

17 But I haven't seen these since probably the
18 spring of 2010. But I'd have to read each one of them
19 in its entirety to say I have seen -- if I had to give
20 a yes or no answer, I would say, yes, I've seen these.

21 Q All right. And I know it's going to take a

1 little bit of time, but I would like you to skim or
2 read each one of those as fast you can and still having
3 the content because it's important to determine whether
4 or not you've seen these before PFC Manning's arrest?

5 A Okay.

6 Q At any time as you're reading it you
7 realize, no, I haven't seen this, you can stop and say,
8 no, I haven't seen this.

9 A Okay. I have seen that one.

10 Q Which one is that?

11 A XX.

12 Q So you've seen Defense Exhibit XX before?

13 A Yes.

14 Q Do you recall when you saw this?

15 A I think it was in -- it would have had to
16 have been May 2010.

17 Q And, I'm sorry, was May 2010 the first time
18 you saw Defense Exhibit XX?

19 A Yes, to the best of my memory that was.

20 Okay. Mike-Mike-Mike, I have seen that one
21 as well.

1 Q And when?

2 A That would have been the same time.

3 Q Again, in the May of 2010 time frame?

4 A Uh-huh. Yeah, I want to say I seen these
5 all at the time, at least those two. And I think I've
6 seen the last exhibit, triple November.

7 Q Also in the May timeframe?

8 A Uh-huh.

9 Q Having read each of these, is this the type
10 of information that you would expect, as the company
11 commander, to be informed of?

12 A Yes.

13 Q And why is that?

14 A As the commander of any size unit, you're
15 responsible for whatever happens or fails to happen in
16 your unit. So any kind of personnel issues, I would
17 expect be routed through the NCO chain of command and
18 then finally, you know, arrive to me.

19 Q And with regards to Defense Exhibit XX,
20 that was in 29 November, 2009. That was prior to you
21 taking command; is that correct?

1 A It was.

2 Q Defense Exhibit Mike-Mike-Mike was 26
3 April 2010. That was after you were taking command?

4 A It was.

5 Q And finally, Defense Exhibit
6 November-November-November, the last two being for
7 identification, was 8 May, 2010?

8 A Uh-huh.

9 Q Also after you took command?

10 A Yes.

11 Q Were you expected to have been informed of
12 what happened on the 26 April, 2010 -- around the 26
13 April, 2010 time frame?

14 A I would have.

15 Q And why is that?

16 A Can I see that exhibit again?

17 Q Certainly. I hand the witness Defense
18 Mike-Mike-Mike for identification.

19 A I was just given the text on this
20 memorandum. It just seems like it will be beneficial
21 for me in my determination whether I want to, like,

1 command refer him for a mental health evaluation. I
2 don't know if that's the decision I would have made at
3 the time. If I had seen that, I might have just said,
4 hey, Master Atkins, can you handle it in-house. If it
5 gets worse, let me know. I just like to be informed.
6 As a commander, you always want to be informed on
7 stuff. Whether you're able to act on it at the time
8 you're given it or if you feel like you need to act on
9 it at the time you're given it, it depends on the
10 situation.

11 Q I am retrieving from the witness Defense
12 Exhibit Mike-Mike-Mike for identification.

13 Could this also have helped you be informed
14 on whether or not a derog or remove him from the T-SCIF
15 would have been appropriate?

16 A I don't know if that one would have helped
17 me make that determination or not by itself if I was
18 given it at the time. But that in addition to the
19 third and final one on 7 or 8 May, that probably would
20 have definitely, you know, backed up my decision.

21 Q So with regards to the memorandum in April,

1 did you have any concern about a soldier with the
2 behavioral problems that were addressed in there, that
3 wouldn't, in your mind, raise an issue on whether or
4 not that soldier should have a security clearance?

5 A For the April one I just read?

6 Q Yes.

7 A It would have -- I don't know. I don't
8 know if I would have -- I mean, it depends on -- maybe
9 today I would say yes, but three years ago being brand
10 new to the command, I might not have even thought about
11 it. I probably didn't know what a derog was at that
12 time, but...

13 Q Okay. Let's talk about where you elected
14 to put PFC Manning afterwards.

15 You put him in the supply room; is that
16 correct?

17 A I did.

18 Q And when he was in the supply room, was he
19 seeing behavioral health at that time, to your
20 knowledge?

21 A I believe he was. I don't know it was a

1 weekly basis or a monthly basis, but I want to say he
2 did have some scattered appointments with behavioral
3 health when he came to work for me.

4 Q Were these command directed or
5 self-referrals, to your knowledge?

6 A I'm not sure. I don't think I command
7 referred him until maybe the second or third week in
8 May. I'm not positive on that, but I think that he was
9 going to see somebody at behavioral health. I want to
10 say Captain Morsley (phonetic) at the time, that he had
11 been seeing him on -- I don't know how regular of a
12 basis, by he's seen him in the past.

13 Q And did you ever receive any report back
14 from behavioral health?

15 A I'm not sure -- well, I did, but I don't
16 know if I requested the information or they provided
17 it.

18 Q Based upon what you received, did you
19 initiate a chapter action?

20 A Yes. To the best of my knowledge, I did.
21 I talked to Captain Morsley and he did say, hey, I've

1 seen, you know, PFC Manning in the past. I think that
2 his -- from what I found and from our counseling
3 sessions, he's got some deeper issues than what the
4 Army can fix right now, but don't just take my word for
5 it, let's get an unbiased opinion. Captain Critchfield
6 is the other behavioral health specialist in the
7 brigade. Let's have him do, like, the mental eval and
8 we'll see what he says and that's what I did.

9 Q Do you recall ever stating that you were
10 shocked that more serious disciplinary actions had been
11 taken based upon PFC Manning's behavioral issues prior
12 to your determination?

13 A I think I read that in the past and it
14 seemed like shocked is one of those words that would be
15 a quote from me. But I don't -- shocked is not one of
16 those words I use on a regular basis. So I don't
17 really recall saying that. So I don't really know.

18 Q All right. So now you don't?

19 A I mean, I'm not -- I've seen that in the
20 past, reading up on the trial and I did see, that I was
21 shocked that more action hadn't been taken. I don't

1 really remember saying that or not. I did find it, I
2 guess, a little bit strange that something, I guess,
3 more severe than just having Manning go to behavioral
4 health appointments. I guess something more than that
5 hadn't done and I was a little bit surprised by that.

6 Q And did you ever have any conversations
7 with Captain Lim about what he knew regarding PFC
8 Manning?

9 A I think I may have, but I don't really
10 remember the bulk of the conversation. I don't
11 remember what was said. Most of my information came
12 from Master Sergeant Atkins. He's the one that
13 provided me with the majority of the background on
14 Manning, so...

15 MR. COOMBS: Thank you.

16 No further questions.

17 THE COURT: Cross-examination?

18 MR. VON ELTEN: One moment, Your Honor.

19 (Pause.)

20 EXAMINATION BY MR. VAN ELTEN:

21 Q Captain Freeburg, you assumed command on 17

1 April, 2010?

2 A Correct.

3 Q And after you assumed command, you spent a
4 lot of time resolving property book issues?

5 A I did. I actually -- typical to sign
6 property book before taking command. I took command
7 and about a week later I was actually able to sign my
8 property book. We didn't really have a choice at the
9 time.

10 Q On direct you testified that you took --
11 adverse action was taken as a result of that assault,
12 correct?

13 A Yes.

14 Q Company Article 15?

15 A Yes.

16 Q And as a result of that adverse action, you
17 initiated a derog?

18 A Yes.

19 Q And derogs are appropriate for adverse
20 actions?

21 A Yes. I mean, it really depends. I would

1 say they might be, like, commander's preference.
2 There's -- I would say depends on the type of offense.
3 Maybe what MOS the soldier has is pending an adverse
4 action, what position he holds. So, in this case,
5 knowing what little I did know about derogs and Manning
6 having top secret clearance, being an assault and just
7 you know the location where he worked, I thought it
8 would be appropriate.

9 Q Derogs aren't appropriate for every
10 outburst, are they?

11 A I would say no. It depends on -- I would
12 say it depends on the commander. It kinds of commander
13 discretion. Like, if I would said if I had a soldier
14 that disrespected NCO, I was going to give him a
15 company Article 15, I don't know if I would initiate a
16 derog or not to suspend his clearance for that. I
17 would almost have to make that command determination on
18 what type of offense on a case-by-case basis type of
19 analysis on them.

20 Q Would you agree that sometimes NCO handle
21 outburst issues?

1 A I would say they do. Most times they do.

2 Q And would you agree that NCO don't have a
3 report every outburst to the officer?

4 A I agree.

5 Q After you told of the assault, you also
6 initiated health evaluation; is that correct?

7 A Yes.

8 Q And you had never been told prior to that
9 initiation by a medical professional that PFC Manning
10 should be separated from the army?

11 A No, not until after the fact. After that
12 assault.

13 Q And after you were told -- given the
14 recommendation by a medical professional to separate
15 PFC Manning, you took action; is that correct?

16 A Yes.

17 Q And the action you took was to initiate a
18 separation?

19 A Yes.

20 MR. VAN ELTEN: Thank you.

21 THE COURT: Captain Freeburg, you are

1 temporarily excused. Please don't discuss your
2 testimony or knowledge of the case with anyone other
3 than the lawyers or the accused while the trial is
4 still going on. You are free to go.

5 (Witness left stand.)

6 MR. COOMBS: And the Defense's next witness
7 is telephonic, Captain Michael Johnson. So let me have
8 just a moment to get him on the line.

9 THE COURT: You want to take a ten-minute
10 recess and try to make all that happen?

11 MR. COOMBS: Yes, Your Honor.

12 THE COURT: Is ten minutes enough?

13 MR. COOMBS: Yes, it is, Your Honor.

14 THE COURT: All right. Court is recess
15 then until five minutes after 15:00 or 3:00.

16 (There was a recess take at 2:57 and the
17 trial resumed at 3:09 p.m.)

18 THE CLERK: All rise.

19 THE COURT: Please be seated. Court is
20 called to order. Let the record reflect all parties
21 present when the court last recessed are again present

1 in court.

2 Mr. Coombs, are you ready to proceed?

3 MR. COOMBS: Yes, Your Honor. The Defense
4 calls Captain Michael Johnson for telephonic testimony.

5 Captain Johnson, can you hear me?

6 THE WITNESS: Yes, sir.

7 MR. COOMBS: Captain Johnson, the trial
8 counsel is going to swear you in. If you would,
9 please, stand and raise your right hand.
10 Whereupon,

11 CAPTAIN MICHAEL JOHNSON,
12 called as a witness, having been first duly sworn to tell
13 the truth, the whole truth, and nothing but the truth,
14 was examined and testified as follows:

15 MR. VAN ELTEN: Do you have any papers with
16 you?

17 THE WITNESS: I have a notepad and pencil
18 right next to the phone here.

19 MR. VAN ELTEN: Please put that underneath
20 your seat. Are you by yourself?

21 THE WITNESS: I am.

1 MR. VAN ELTEN: Are you in a place where
2 you are able to testify freely?

3 THE WITNESS: Yes.

4 MR. VAN ELTEN: Should anything interrupt
5 your testimony, please notify the court.

6 For the record, your Captain Michael
7 Johnson of the 4th Brigade of the 25 ID?

8 THE WITNESS: Thank is correct.

9 MR. VAN ELTEN: Thank you.

10 EXAMINATION BY MR. COOMBS:

11 Q Captain Johnson, were you ever assigned to
12 the second BCT of 10th Mountain Division?

13 A Yes.

14 Q When was that?

15 A My initial title was February of
16 2008 through October of 2010.

17 Q And what was your job when you were with
18 the second BCT?

19 A My initial job was 19 months as a senior
20 intelligence platoon leader and I spend the remainder
21 of my tour as the collection manager for the S2 shop.

1 Q When did you switch over to the collection
2 manager of the S2 shop?

3 A Approximately 30 days prior to the
4 deployment. I would say -- I don't have my [inaudible]
5 right in front of me, but, roughly speaking, September
6 of 2009.

7 Q Did you ever approach the then S2 Major
8 Clausen regarding your initial counseling?

9 A Regarding any of the counseling, yes.

10 Q And did they ever provide you with a
11 written counseling for what your job would entail and
12 what your duties were?

13 A Yes.

14 Q What was your understanding of your
15 responsibilities when you switched over to assume your
16 new position?

17 A Collection management and then [inaudible]
18 what I took from my previous commander, Paul Walter,
19 was regardless of whether you're on staff or not,
20 you're still a leader.

21 Q Did you ever state that you kind of felt

1 your job was a bunch of "hey you taskers?"

2 A Yes, most definitely.

3 Q And why did you feel that way?

4 A Essentially, there was no direction as far
5 as what was going on in the S2 shop prior to our
6 deployment and in the days of our deployment. There
7 was delineation of tasking.

8 Q And when did you arrive in Iraq?

9 A I can't recall the exact date. I believe
10 it was November or December of 2009.

11 Q And what was your duty position when you
12 deployed?

13 A It was collection management.

14 Q Did you ever move to work inside the SCIF?

15 A Yes, about half --

16 Q I'm sorry, go ahead.

17 A About halfway through our deployment I was
18 working out on the top floor on [inaudible] estimate
19 time and I discussed the fact that being on the top
20 floor was actually detrimental to my ability to do my
21 job effectively. So we moved back into the SCIF where

1 I was able to actually focus on the intelligence
2 production portion instead of ISR reallocation.

3 Q And did you have any enlisted soldiers that
4 worked for you when you moved into the SCIF?

5 A I still maintained oversight of Specialist
6 [inaudible]. However, he was not co-located with me.
7 I was also responsible for all the soldiers of the
8 current operations desk.

9 Q And did you believe, I guess based upon
10 your position, that you had a responsibility to counsel
11 and discipline these soldiers if needed?

12 A Yes.

13 Q And why did you feel that way?

14 A Because I'm a leader.

15 Q Did you ever engage soldiers on listed
16 matters?

17 A Yes.

18 Q And when you did that, were you ever told
19 that you were not to deal with enlisted matters by
20 anyone in the S2 section?

21 A Yes.

1 Q And who told you that?

2 A Specifically, Master Sergeant Atkins and
3 then when I took the issue up to my leadership,
4 initially Major Clausen, I was told to back off, that
5 Master Sergeant Atkins would deal with it and then
6 later Captain Lim, essentially the same answer.

7 Q And what enlisted matters were you trying
8 to deal with as a leader in general?

9 A My initial ones were we had two soldiers
10 that had promoted and they had not been pinned on their
11 rank. So they were receiving the pay and then showing
12 up on their ERB that they achieved the rank of
13 specialists and they had not been pinned.

14 I found out about this through passing and
15 Master Sergeant Atkins. I was notified that they had
16 not earned the rank, at which point I reminded him that
17 that was our duty to do that beforehand, before they
18 were able to associate with them and [inaudible] we
19 have to get out pin them and that was one of the first
20 duties I took from Major Clausen.

21 Q Now, in addition to you, from your

1 perspective, were either leaders stripped of
2 supervisory and disciplinary responsibility over
3 enlisted soldiers?

4 A Yes. I did not recall his name. There was
5 an E5 who worked in the S2 shop as well. Schaefer
6 sticks out in my head. But he deployed out [inaudible]
7 and he and I talked at length about the fact that he
8 was not treated as a team leader or a squad leader and
9 essentially all leaders were directed right through
10 Master Sergeant Atkins.

11 Q And from your perspective as a leader, was
12 Master Sergeant Atkins enforcing standards?

13 A No.

14 Q Was the S2, Major Clausen, from your
15 perspective, enforcing standards?

16 A No.

17 Q Based upon your perception, how would you
18 describe the leadership provided within the S2 section?

19 A Regarding specifically Major Clausen, we
20 would refer to him as an absentee leader. He was
21 decorated physically from the S2 shop. He worked in a

1 separate area. The [inaudible] deployed him. So we
2 see him maybe once a day. He would just pop his head
3 in, smiled at everybody, told everybody we were doing a
4 great job and would punch out. So most of the
5 leadership came down to Captain Martin, I believe she's
6 now Captain Fulton and then later [inaudible].

7 Q From your perspective, was there a clear
8 chain of command and responsibility within the
9 S2 section?

10 A Chain of command, yes. Responsibility, no.
11 Chain of command is very simple. The responsibility --
12 who is responsible for what tasks and who was -- and
13 what sections would respond to, that was not clear.

14 Q Within the S2 section, who did Major
15 Clausen allow to essentially run the S2 section?

16 A Pat Martin was the person doing the
17 day-to-day operation of S2 shop and Master Sergeant
18 Atkins was running the enlisted side and that was
19 one -- we did not have -- we didn't have soldiers who
20 were dedicated to specific tasks.

21 Q What do you mean by that?

1 A A request for analytic product would come
2 in and I would essentially just go to whoever was
3 immediately available. So just working with the
4 analyst you have to give them a problem set.
5 Otherwise, they don't [inaudible]. You're always
6 starting off at date one instead of -- instead of
7 getting a reduction or assembly line [inaudible] you
8 want to obtain a life and death. So we were just doing
9 random tasking and the soldiers never actually
10 developed a depth of the task.

11 Q Within the F2 section was there a clear
12 rating chain?

13 A Yes.

14 Q And how did the leadership rating chain
15 scheme work, from your perspective?

16 A Captain Lim -- do you want me to focus on
17 Captain Lim or Major Clausen?

18 Q Let's go ahead and deal with Major Clausen
19 first.

20 A Okay. Major Clausen rated me and rated
21 Captain Martin. Captain Martin rated the lieutenants,

1 Lieutenant Gavin [inaudible] and then Major Clausen
2 rated Master Sergeant Atkins and, from there, Master
3 Sergeant Atkins rated -- as well as Chief Ehersman
4 [inaudible] and Master Sergeant Atkins rated the
5 enlisted soldiers by rank.

6 Q With regard -- why was Master Sergeant
7 Atkins rating the enlisted soldiers as opposed to, I
8 guess, first line supervisors for enlisted soldiers?

9 A To elaborate, Master Sergeant Atkins would
10 rate Sergeant Lim and I cannot remember his name. The
11 other E5 in the shop and so he rated them and then
12 those two were responsible for getting the soldiers
13 their monthly counseling.

14 Q Okay. Now, I want to ask you a few
15 questions about your observations of PFC Manning.
16 Okay?

17 A Yes, sir.

18 Q What was the first issue that you noticed
19 with PFC Manning as far as a behavioral issue?

20 A Odd behavior, we also noticed that he
21 tended to be generally tardy.

1 Q In December of 2009, did you ever witness a
2 issue involving PFC Manning and Specialist Padgette?

3 A I did not witness it. However, I'm very
4 aware of the situation. Specialist Padgette came to me
5 for advice. I advised him to counsel Specialist
6 Manning and then the next morning we came in there was
7 the incident with the table flipping.

8 Q And with regards to the table flipping
9 incident, were you present at that point?

10 A No.

11 Q Were you later made aware of what happened
12 during that time period?

13 A Yes.

14 Q And based upon what you found out happened,
15 did you address your concerns with Major Clausen and
16 Master Sergeant Atkins?

17 A Yes.

18 Q And what were your concerns that you were
19 addressing with him?

20 A Special Manning needed to be squared away.
21 It is not uncommon for 35 foxes to be high maintenance

1 but he had crossed the line.

2 Q And when you went to Master Sergeant Atkins
3 and Major Clausen to express your concerns, what were
4 you told?

5 A I went to Master Sergeant Atkins and said
6 he had it and then when I went to talk to Master
7 Sergeant Atkins about it he told me to deal with it.

8 Q Do you know what a derog is?

9 A Yes.

10 Q And how do you know what a derog is?

11 A Now, I'm company commander for intelligence
12 so I'm, fortunately with them. But at the time I was
13 familiar with it, I had one soldier during my time who
14 had a derog due to lack of loyalty and I told him I am
15 familiar with commander's requirements to report to
16 TFFC I believe is the acronym, that the clearance
17 center soldier had derogatory reporting on.

18 Q And what is the goal, from your
19 perspective, of reporting derogs in capturing that
20 information when somebody has done something that
21 warrants a derog?

1 A To report that their clearance has been
2 [inaudible] as well as to notify for future
3 investigation either at that time or for immediate
4 purposes for later on when they reinvestigated. That
5 incident needs to be investigated specifically.

6 Q Based upon what you perceived, did you ever
7 form an opinion whether or not PFC Manning should have
8 received a derog?

9 A No, I did not form an opinion .

10 Q Did you ever discuss that with anyone?

11 A Not to my recollection.

12 Q And in the December timeframe from your
13 memory, did anyone raise the issue with the possibility
14 of a derog?

15 A Not to my recollection.

16 Q Captain Johnson, the trial counsel is going
17 to have a few questions for you. Okay?

18 THE WITNESS: Yes, sir.

19 MR. COOMBS: All right. Thank you.

20 THE COURT: Could I have a minute, Your
21 Honor?

1 MR. VAN ELTEN: Yes.

2 THE COURT: Captain Johnson, this is the
3 military judge, Colonel Lind. The government is
4 conferring for a few minutes and we'll be right with
5 you.

6 THE WITNESS: Yes, ma'am.

7 EXAMINATION BY MR. VAN ELTEN:

8 Q Captain Johnson?

9 A Yes, sir.

10 Q How often did you see PFC Manning?

11 A On a daily basis until he was removed from
12 the S2 shop.

13 Q And how often did you interact with him?

14 A As far interaction, very little. We had
15 a -- at the very beginning of the deployment, I took a
16 few of the soldiers over to the gym to try to show them
17 some workouts. He came with us and I believe I had one
18 more one-on-one work without with him, two total with
19 my one-on-one interaction with him.

20 Q Why did you take PFC Manning to the gym?

21 A Well, for moral. He seemed to take an

1 interest in my going to the gym and a couple of the
2 soldiers were asking about it. So I invited them all
3 to come out and I wanted, in this case, we can get
4 [inaudible] deployment if you're shut off.

5 Q What happened after you up took him to the
6 gym the second time?

7 A I think I pushed him too hard, honestly and
8 he never went again. I invited him a few more times,
9 he didn't seem interested.

10 MR. VAN ELTEN: Thank you.

11 MR. COOMBS: No redirect, Your Honor.

12 THE COURT: Captain Johnson, this is the
13 military judge again. I have one question.

14 THE WITNESS: Yes, ma'am.

15 THE COURT: Why is it not uncommon for 35
16 foxes to be high maintenance?

17 THE WITNESS: Ma'am, I wish there was a
18 better answer, but I have interacted with hundreds of
19 35 foxes throughout the seven years I've been an MI
20 officer and they -- for whatever reason they tend to
21 have sense of entitlement. To elaborate, my brigade

1 commander [inaudible] talking about the sense of
2 entitlement my company has and that was one of the
3 goals was to eliminate that sense of entitlement and we
4 get these soldier right out of AIT and they feel like
5 they're better than the average soldier and most
6 definitely that they're smarter than the majority of
7 the leadership.

8 THE COURT: Go ahead, proceed. I'm sorry,
9 I thought you were finished with your answer. Proceed.

10 THE WITNESS: Due to this, they tend to
11 be -- they tend to question authority a lot. They tend
12 to question orders from their leadership. They
13 typically have a problem with authority, not to the
14 point of being disrespectful but just pushing their
15 limits, not paying attention, not referring to their
16 leaders by their position or grade and then they --
17 they'll move on from there.

18 THE COURT: Thank you. Any followup based
19 on that?

20 MR. COOMBS: No, Your Honor.

21 MR. VAN ELTEN: No, Your Honor.

1 THE COURT: You want him permanently
2 excused or temporarily excused?

3 MR. COOMBS: Permanently, Your Honor.

4 THE COURT: Captain Johnson, thank you very
5 much. You are permanently excused.

6 THE WITNESS: Yes, ma'am.

7 MR. COOMBS: Your Honor, the Defense calls
8 Lieutenant Elizabeth Fields to the stand.
9 Whereupon,

10 LIEUTENANT ELIZABETH FIELDS,
11 called as a witness, having been first duly sworn to tell
12 the truth, the whole truth, and nothing but the truth,
13 was examined and testified as follows:

14 MR. VAN ELTEN: For the record, you're
15 Captain Elizabeth Fields from the 513 MI battalion?

16 THE WITNESS: Yes, sir.

17 EXAMINATION BY MR. COOMBS:

18 Q Captain Fields, were you ever assigned to
19 the second BC Tenth Mountain?

20 A Yes, sir.

21 Q And when was that?

1 A That was from April of 2009 until October
2 of 2011.

3 Q And what was --

4 A 2012, I'm sorry.

5 Q Okay. What was your job with the second
6 PCT?

7 A My job was initially, I worked up a
8 brigade. I was in the brigade Intel shop. Then I
9 eventually became the -- I worked for the Bravo
10 company, I was an executive officer. And, lastly, I
11 was the battalion maintenance office for GBSTY.

12 Q And did you ever -- within the SCIF, did
13 you ever work in the SCIF?

14 A I did, sir.

15 Q And what was your job there?

16 A My job there, I was a Sunni team analyst.

17 Q Now, in addition to your other duties, were
18 you ever given the responsibility of the, as you said,
19 special security representative for the 2nd BCT?

20 A I was not on official orders.

21 Q You were not on official orders?

1 A Correct.

2 Q Were you ever given that responsibility?

3 A No, sir.

4 Q Did you ever serve in that responsibility
5 at all?

6 A No. I did up at Drum, sir.

7 Q And what did you do when you were at Drum?

8 A When I was at Drum, I was the SSR which is
9 the special security representative. In addition, I
10 also worked in the brigade Intel shop. So you could
11 call me the assistant brigade officer.

12 Q And what sort of training did you need to
13 become the brigade SSR at Fort Drum?

14 A At Fort Drum, I worked with the SSO with
15 Mr. Jeffrey Garish (phonetic) of that Tenth Mountain,
16 the division headquarters where he worked and I would
17 just coordinate with him any time I needed anything.

18 Q Did you receive an hour long course in
19 order to be certified as a brigade SSR?

20 A I don't know the length, but I did receive
21 a course.

1 Q And in addition to that course, did you
2 receive any other training?

3 A No, that was all I can recall.

4 Q And were you selected or were you -- did
5 you volunteer for the SSR?

6 A I was told I was going to do it.

7 Q And what month did you arrive in Iraq?

8 A It was October of 2009.

9 Q And you indicated that you weren't -- you
10 were not the SSR when you got to Iraq?

11 A Correct.

12 Q Who was the SSR for your unit?

13 A I don't know who was on orders to be the
14 SSR.

15 Q Do you know who served that position?

16 A I don't know.

17 Q Did Master Sergeant Atkins ever serve in
18 that position?

19 A He assumed security responsibilities.

20 Q And would that be what the SSR does?

21 A The SSR encompasses a wide range of things.

1 That was one of the duties.

2 Q And why was he assuming that duty, do you
3 know?

4 A I don't know.

5 Q Do you know if he received any training to
6 fulfill that role?

7 A I don't know.

8 Q And I'm going to tap into some of your
9 experiences just to see if this would fall within the
10 duties of an SSR, okay?

11 A Uh-huh.

12 Q Am I correct in saying that all thumb
13 drives, data sticks, external hard-drives, USB ports
14 are expressly prohibited within the T-SCIF?

15 A That's correct.

16 Q And that's one of the duties of the SSR, to
17 ensure that thumb drives, data sticks, external
18 hard-drives, USB ports are not within the T-SCIF?

19 A That is correct.

20 Q And why do we prohibit those devices?

21 A From my understanding, I know there was a

1 security violation years ago in terms of thumb drives.
2 So it was told no thumb drives can be allowed in the
3 SCIFs when I came into the army.

4 Q And what about CDs? Are CDs in DVDs
5 supposed to be inventoried, approved and signed for by
6 the SSR?

7 A And of right now or what date?

8 Q As of the time of the deployment.

9 A The deployment? To my knowledge, yes.

10 Q And was that being done by Master Sergeant
11 Atkins as far accounting for inventories, all CDs and
12 DVDs within the T-Schif?

13 A I don't know if that was his role.

14 Q Do you know if anyone was doing that?

15 A No.

16 Q Do you believe that was being done?

17 A No -- I don't know.

18 Q You don't know or you don't believe that
19 was being done?

20 A I don't know.

21 Q Do you know, with regards to Master

1 Sergeant Atkins being the SSR, what he did to ensure
2 accountability of media such as CDs?

3 A No.

4 Q Do you recall indicating in a sworn
5 statement that you believe that there was no
6 accountability over CDs?

7 A Correct.

8 Q And is that what you believe here today?

9 A I can't remember, sir.

10 Q I'm going to have your sworn statement
11 marked. I'll let you look at that to refresh your
12 memory and then I'll ask you the question, okay?

13 A Okay.

14 Q I'm showing you what's been marked as
15 Defense Exhibit Papa-Papa-Papa for identification. If
16 you could, please go ahead and take a look at that for
17 a moment and thumb through the pages and then look at
18 me after you've had a chance to look at that document.
19 You don't need to read the document, kind of peruse the
20 document to see what it is.

21 A Okay.

1 Q Do you recognize this document?

2 A I do.

3 Q What is it?

4 A It is my sworn statement that I gave back
5 in -- there is no date -- it was January 18th, 2011.

6 Q What I'm going to do is I'm going to direct
7 your attention to the second page and I want you to go
8 ahead and just read silently to yourself basically from
9 the question "did Major Clausen give any guidance on
10 bringing CDs and DVDs into the SCIF" down to "there was
11 no accountability of the media." Just kind of read
12 that to yourself.

13 A (Witness complied.) Okay.

14 Q I'm retrieving Defense Exhibit
15 Papa-Papa-Papa for identification.

16 Does that refresh your memory?

17 A It does, sir, at the time. I can't -- as
18 of right now, I don't recall any procedures. So if I
19 were to say yes or no, I can't provide you with any
20 examples.

21 Q I guess my question is: Does your refresh

1 memory on whether or not there was accountability of
2 CDs within the SCIF?

3 A No, sir.

4 Q It does not refresh your --

5 A No, because I can't -- I can't recall any
6 examples of whether or not people did take
7 accountability or not.

8 Q At the time -- I'm retrieving again Defense
9 Exhibit Papa-Papa-Papa for identification. I'm handing
10 the witness Defense Exhibit Papa-Papa-Papa for
11 identification.

12 At the time that you wrote this sworn
13 statement, did you have a memory of the events that
14 were within the sworn statement?

15 A At the time, I'm assuming I did.

16 Q And the question -- do you recall why you
17 were given this sworn statement at the time?

18 A I was told we were conducting an AAR to see
19 what happened here for the case and to see if we can
20 make any procedures in the future that can correct
21 this.

1 Q When you were asked questions and you had
2 given responses, was it important to you to give
3 accurate responses?

4 A Yes. It was. It was a sworn statement.
5 You have to.

6 Q And I imagine, then, you gave responses to
7 the best of your recollection?

8 A Yes, sir.

9 Q And those were what you recalled at that
10 point?

11 A Yes, sir.

12 Q Retrieving Defense Exhibit Papa-Papa-Papa
13 for identification. Within Defense Exhibit
14 Papa-Papa-Papa for identification -- I'm actually
15 showing, again, the witness the exhibit.

16 I'm going to read this section out loud and
17 just tell me if I'm reading this correctly, okay?

18 A Uh-huh.

19 Q "Did Major Clausen give any guidance on
20 bringing CDs and DVDs into the SCIF?"

21 Answer: Initially, they weren't allowed in

1 the SCIF, but then they slacked off and then -- and
2 they were brought into the SCIF so they could play
3 music on the computers."

4 Question: "Was it simply accepted?"

5 Answer: "Yes."

6 Question: "How did you ensure
7 accountability of the media?"

8 Answer: "There was no accountability of
9 the media."

10 Did I read that correctly?

11 A Yes, you did.

12 Q Based upon your perception, how would you
13 describe the leadership provided within the S2 section?

14 A Which leadership?

15 Q Your officer enlisted leadership.

16 A I would say that they performed to the best
17 of their ability, sir.

18 Q Was there a clear chain-of-command within
19 the S2 section?

20 A Yes, sir.

21 Q How did Master Sergeant Atkins provide

1 supervisory responsibility to enlist his soldiers, from
2 your perspective?

3 A From my perspective is that he performed to
4 the best of his ability. From my perspective.

5 Q Okay. I show you again Defense Exhibit
6 Papa-Papa-Papa for identification. And again, I'm
7 going to go ahead and read something. You tell me if
8 I'm saying this correctly. Okay?

9 A Uh-huh.

10 Q Question: "From your perspective as a
11 Sunni analyst, how did Master Sergeant Atkins provide
12 supervisory responsibility?"

13 Answer: "I thought it was terrible because
14 the problems were ignored such as mental problems. He
15 tried to keep it to himself. The key problem was
16 Manning and when the problems came up I was told that
17 it was an NCO problem and stay out of it."

18 Did I read that correctly?

19 A You did, sir.

20 Q Now, is that your memory -- do you still
21 believe that the supervisor, Master Sergeant Atkins'

1 supervisory responsibility was terrible?

2 A No. Based on when I wrote that statement,
3 I was a second lieutenant, you know, just being
4 promoted a first lieutenant, now a captain looking at
5 taking a company command here soon and with that
6 experience that I've gained I now have a new
7 perspective in looking back and I've seen that everyone
8 performed to the best of their ability that they could
9 have done.

10 Q Okay. So maybe it's just a matter of
11 time --

12 A It's more time and experience in the army.

13 Q All right. As a first lieutenant, at the
14 time that you wrote this sworn statement, you believed
15 Master Sergeant Atkins' supervisory responsibility was
16 terrible because problems were ignored?

17 A Correct.

18 Q Now, as a captain, you don't believe that's
19 correct or you do believe that is correct, but he
20 performed to the best of his abilities?

21 A I believe he performed to the best of his

1 abilities and here is why. Looking back now, I did not
2 have a supervisory role over Master Sergeant Atkins.
3 So due to that, I could not tell you how he performed
4 his job accurately.

5 Q Okay. I guess, though -- do you believe,
6 now as a Captain, that he provided terrible supervisory
7 responsibility and that he ignored problems?

8 A No, sir. I can't answer that because I
9 didn't see him from a supervisor's role.

10 Q Do you believe now as a captain that mental
11 problems were being ignored and he tried to keep it to
12 himself?

13 A I can't answer that because I don't know
14 what issues were brought to him.

15 Q But apparently you believe that as a first
16 lieutenant?

17 A I did at the time, yes, sir.

18 Q All right. Explain to me why you believed
19 that at the time?

20 A I can't tell you why I had written that at
21 the time, sir.

1 Q Well, again, you expressed that it was
2 important to be honest, it was a sworn statement and I
3 believe your words were, yeah, you gotta be very honest
4 in a sworn statement.

5 So why would you say that in a sworn
6 statement?

7 A Because, at the time, I had little
8 experience in the military. So I'm looking at -- it's
9 typical when you get to a new unit you start judging
10 people who are around you and so it was just my initial
11 impression. However, to gain more experience, I
12 realize that you have to look people in a different
13 light.

14 Q Well, I'll first ask you this: Did you
15 ever say that there was a lack of leadership
16 across-the-board?

17 A I did say that in a sworn statement.

18 Q All right. Do you believe that now, today,
19 as you sit there?

20 A Negative, sir.

21 Q So at the time you gave the sworn

1 statement, you believed within S2 section there was a
2 lack of leadership across-the-board but, today, you
3 don't believe that?

4 A Yes, sir.

5 Q What changed between the time that you
6 wrote this worn statement and today?

7 I know you said you got promoted, but what
8 issue caused you to look back and say, you know what,
9 when I said there was a lack of leadership
10 across-the-board within the S2 section I wasn't quite
11 accurate?

12 A Correct, sir. When I said that at the
13 time, I was doing the typical -- oftentimes when
14 lieutenants get in the army, you make pre-judgments
15 about people without knowing or seeing because you
16 haven't served in those positions yet. But now that
17 I've gained more experience in the army, I realize that
18 you can really only judge people that you are in
19 control of because you're the one giving them the
20 tasks, you're the one seeing what they have to do on a
21 day-to-day basis.

1 So that's why I'm now refuting that
2 statement that I had once said initially. I realize
3 that, hey, I cannot give an accurate assessment of
4 whether or not they performed their job because of the
5 fact that I was not in charge of them.

6 Q Okay. But as far as leadership, you were a
7 first lieutenant, correct?

8 A Yes, sir.

9 Q So there were people above you within the
10 S2 section?

11 A Yes, sir.

12 Q I imagine you could -- could you opine on
13 the leadership you received from those individuals?

14 A Excuse me?

15 Q Could you opine -- could you make an
16 opinion regarding the quality of leadership that you
17 received from individuals above you?

18 A Not an accurate one, sir, because I don't
19 know what they do on a day-to-day function.

20 Q Okay. I want to ask you a few questions
21 about PFC Manning. All right?

1 A Uh-huh.

2 Q Do you recall -- first of all, what's the
3 first issue that you recall noticing with regards to
4 PFC Manning and any sort of behavioral problems?

5 A The first behavioral issue I recall, I
6 believe it was December or January. The term is not
7 correct. I forget what month it was. He was being
8 counseled by Specialist Padgett and I remember I was
9 sitting down at my desk. It was in another room. I
10 heard a table, it was lifted. There was a lot of noise
11 and commotion and when I walked in the room I had seen
12 that Manning was being restrained by -- I can't
13 remember if it was Padgett or Chief Ehlersman.

14 Q All right. So you hear -- let's go back a
15 little bit, I guess.

16 You said you heard a scream?

17 A Well, not a scream. I heard a table lift,
18 like almost the sound of when you move a table.

19 Q And what caused you to want to get up and,
20 I guess, go look to see what was going on?

21 A Because there a loud thump, sir.

1 Q Did you hear anything else besides the
2 table?

3 A No, sir.

4 Q And then where were you at when you heard
5 the table?

6 A I was sitting at my desk, sir.

7 Q And where was that in relation to where PFC
8 Manning, Chief Ehersman and Specialist Padgett were?

9 A Sir, it's almost like I'd be sitting right
10 here and maybe that door would be the room, but the
11 door was faced against that wall.

12 Q Let the record reflect the witness pointed
13 towards a door that was approximately 15 feet to
14 20 feet away from you.

15 Would you agree with that estimate?

16 A Yes, sir.

17 Q So when you heard the noise, what did you
18 do?

19 A I just got up, sir, and I wanted to see
20 what was going on.

21 Q And when you got -- when you walked into

1 that area, what did you see?

2 A I saw that PFC Manning was being restrained
3 by either Specialist Padgett or Chief Ehersman. I
4 know they were both in there. I don't remember who
5 physically had him restrained.

6 Q And then what happened, from your
7 perspective?

8 A And then I went back. Chief Ehersman said
9 he was going to take care of it and, from my knowledge,
10 it was reported to Master Sergeant Atkins, but I did
11 not see that or physically see it being reported to
12 Master Sergeant Atkins. It's just my knowledge that I
13 have from rumor.

14 Q Okay. What did you find out -- what did
15 you know, from your position, happened within the
16 counseling session between Specialist Padgett and
17 Manning?

18 A I don't know. All I know is he was being
19 counseled.

20 Q Did you ever find out the circumstances of
21 why the table was lifted or what -- or why someone was

1 restraining PFC Manning?

2 A No, I just know he was being counseled.
3 Supposedly he got angry about it.

4 Q And you know of no other facts?

5 A No, sir.

6 Q And after the incident, what happened with
7 PFC Manning?

8 A He was still -- I don't know what
9 administration action had been taken against him.

10 Q Did you talk to Master Sergeant Atkins
11 about what you saw?

12 A It was either that -- there was an
13 incident -- I did talk to Master Sergeant Atkins at one
14 point...

15 Q We'll get to that one.

16 A Okay.

17 Q In regards to this incident, did you ever
18 speak to Master Sergeant Atkins about it?

19 A This may have been the incident I talked to
20 him about. I don't remember what the incident was
21 about, but I did approach Master Sergeant Atkins at one

1 point and I said, hey, what are we doing about this
2 soldier. He said, "ma'am it's an NCO issue" and, based
3 on past training I received, I've always been told NCOs
4 have their lane, officers have their lane. So I left
5 it as is.

6 Q All right. Now, there was another
7 incident. Do you recall seeing PFC Manning on the
8 floor in the supply room?

9 A Supply room? No, sir.

10 Q Or a conference room?

11 A No.

12 Q Did you ever recall seeing PFC Manning on
13 the floor of a room?

14 A No, sir.

15 Q Do you ever recall a time in which Master
16 Sergeant Atkins was talking to PFC Manning while he was
17 on the floor rocking back and forth?

18 A No, sir.

19 Q You don't recall that at all?

20 A I can't recall that issue as of today.

21 Q I'm going to go ahead and give you some

1 facts to see if this jogs your memory, okay?

2 A Uh-huh.

3 Q Do you recall ever saying to CID that there
4 was another incident in which Master Sergeant Atkins
5 found PFC Manning in the supply room and PFC Manning
6 was rocking back and forth what you believed to be an
7 hour?

8 Do you recall that at all?

9 A I cannot recall an incident, sir.

10 Q Do you have any memory problems or issues?

11 A I do not, sir.

12 Q So I guess when you say you don't recall,
13 it, you believe that didn't happen or do you believe
14 you just don't remember?

15 A Seriously, sir, I cannot remember anything
16 that -- I never witnessed anything like that.

17 Q What's the next issue that you recall
18 regarding PFC Manning?

19 A I don't recall any more, sir.

20 Q How long did you remain in your position
21 within the SCIF?

1 A Until March of 2010, sir.

2 Q And then where did you go?

3 A I became the Bravo company executive
4 officer.

5 Q When you came that -- when you went to that
6 position, did you have any involvement within the
7 S2 section?

8 A I did not, sir. I had soldiers who worked
9 in there and we had property that was in there, but
10 other than that...

11 MR. COOMBS: Thank you. No further
12 questions.

13 THE COURT: Government?

14 MR. VAN ELTEN: One moment, Your Honor.

15 (Pause.) Nothing, Your Honor.

16 THE COURT: I just have a couple.

17 Do you remember how many sworn statements
18 you made with respect to this case?

19 THE WITNESS: I do not, ma'am.

20 THE COURT: Was it more than one?

21 THE WITNESS: Yes, ma'am.

1 THE COURT: Less than five?

2 THE WITNESS: Possibly, ma'am. The way it
3 worked is we were initially called in. Multiple
4 parties would talk to us and it was a mixture that I
5 was just informed, hey, this is for an AAR and I was
6 called back on several occasions.

7 THE COURT: If you made statements in -- I
8 understand your opinion has changed now because of your
9 experience with respect to Master Sergeant Atkins and
10 other people in leaderships trades.

11 If you made factual statements about
12 something happening or not happening in these prior
13 statements that you made, would they have been true?

14 THE WITNESS: Yes, yes.

15 THE COURT: Even if you don't remember them
16 today?

17 THE WITNESS: Yes, ma'am.

18 THE COURT: And followup based on that?

19 MR. COOMBS: No, Your Honor.

20 MR. VAN ELTEN: No, Your Honor.

21 THE COURT: Captain Fields, you are

1 temporarily excused. Please don't discuss your
2 testimony or knowledge of the case with anyone other
3 than counsel of the accused while the trial is still
4 going on.

5 THE WITNESS: Okay.

6 MR. COOMBS: Ma'am, that is all the
7 witnesses that we have scheduled for today. The
8 Defense will start tomorrow morning at 09:30 with
9 Lieutenant Tanya Cobb (phonetic).

10 THE COURT: All right. Before we recess,
11 the court is prepared to rule the government motion for
12 appropriate relief, RCM 706, long form.

13 (Judge read motion.)

14 Mr. Coombs, is the defense going to have
15 any issues with the time line provided by the court?

16 MR. COOMBS: Essentially, Your Honor, yes.
17 Two things, to redact the statements, plus we would ask
18 that the court look at the 706 report in camera (sic)
19 in order to, I guess, approve of our redactions because
20 the Defense -- we believe there are several portions
21 that are statements that were derivative from PFC

1 Manning's statements.

2 THE COURT: All right. So if we do that,
3 I'm noticing here it's 1600.

4 Does the Defense not believe that they can
5 get that done by 21:00 tonight or do you want to give
6 that to me in the morning to take a look at and we'll
7 release it at that point?

8 MR. COOMBS: Yes, Your Honor, the latter,
9 in the morning.

10 THE COURT: All right. Government, do you
11 have any objection to that alteration of the time line?

12 MR. FEIN: No issue with the alteration,
13 ma'am, just that the rule doesn't necessarily
14 distinguish about derivative evidence. Since the
15 report doesn't use the actual statements, the
16 statements can be removed.

17 THE COURT: Are you going to be removing
18 anything but statements?

19 MR. COOMBS: Statements or -- there are
20 sections in which they are essentially rephrasing
21 something that has been said to them. So they've got a

1 section that is statements of PFC Manning and then
2 other sections that we believe, when the court looks at
3 it, would be derivative statements of that.

4 THE COURT: All right. So we're starting
5 at 09:30 tomorrow. How about by 08:30 tomorrow, when
6 you have these redactions for me, explain to me what
7 you believe are statements and what you believe are
8 derivative evidence coming from the statements so I
9 know what I'm looking at with the redactions and I'll
10 take a look at that. The witness isn't coming until
11 tomorrow night; is that correct?

12 MR. VAN ELTEN: That was our original
13 understanding, yes, ma'am.

14 THE COURT: Okay. So we'll go ahead -- I
15 will go ahead and amend this order, then, to include to
16 change the time line to what was just discussed and it
17 will clarify that the Defense will be giving the court
18 the original and then the redacted with two
19 distinctions between statements and what you believe
20 are paraphrased statements, basically.

21 MR. COOMBS: Yes, Your Honor.

1 THE COURT: And that will be by 08:30
2 tomorrow morning?

3 MR. COOMBS: Yes, Your Honor.

4 THE COURT: Okay. Anything else we need to
5 address before we recess the court?

6 MR. COOMBS: No, Your Honor.

7 MR. FEIN: No, ma'am.

8 THE CLERK: All right. Court is in recess.

9 (Trial was adjourned at 4:00 p.m.)
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